

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/4/07 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-19, and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Hatcher et al (WO 99/59106).

Hatcher et al disclose a method and apparatus for generating 3D models from medical images. The pre-operative treatment planning software tool includes modules for creating and manipulating the 3D models for medical applications. The Sculptor module maps all acquired images (i.e. optical or x-ray) that detect a position of a patient into a database and allows the operator to identify the location of different anatomical

points in each of the images, Thereby relating different anatomical points to each other in a 3D space and also relating the points to the images (which are 2D). In addition, any medical treatment devices or treatment-assisting devices would be present in the images (pg 5, lines 8-13). For example, calibration targets 440 are considered treatment-assisting devices because they assist in the treatment planning and are visible in both optical and x-ray images (pg 18, lines 21-22). The Clinician/Consultant module then uses the related points (i.e. data linked) to modify or customize a stock model (i.e. generic 3D anatomical model). The generic model may represent the average structure of a piece of anatomy. The customized patient-specific model (i.e. patient-specific body structure data) that is created corresponds to a 3D model of the patient's anatomy (pg 5, lines 14-23).

Response to Arguments

Applicant's arguments with respect to claims 1, 3-19, and 21-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL ROZANSKI whose telephone number is (571)272-1648. The examiner can normally be reached on Monday - Friday, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eric F Winakur/
Primary Examiner, Art Unit 3768

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